

Subdivision B. - Special Minimum Lot Size Requirements

Sec. 42-197. - In general.

- (a) The city council may designate a special minimum lot size block or a special minimum lot size area within the city to preserve the lot size character of a single-family residential neighborhood that does not have a minimum lot size established by deed restrictions. A minimum lot size requirement established pursuant to this division shall prevail over any lesser minimum lot size established by this article. The department shall maintain a list of current special minimum lot size blocks and special minimum lot size areas on its website.
- (b) An area is eligible for designation as a special minimum lot size block if it:
 - (1) Contains not less than one blockface and no more than two opposing blockfaces;
 - (2) Contains all lots on each blockface within the proposed area;
 - (3) Forms a contiguous area without containing any out tracts;
 - (4) Contains lots, at least 60 percent of which are developed for or restricted to single-family use, exclusive of land used for a park, utility, drainage or detention, public recreation or community center, library, place of religious assembly or an elementary school, junior high school, or high school. For purposes of this item, a vacant lot that contained a structure or was used for any lawful purpose within the five years prior to the date the application was accepted by the director shall be considered to be in use for the most recent lawful use of that lot; and
 - (5) Contains at least one lot that does not have a minimum lot size established by deed restrictions.
- (c) An area is eligible for designation as a special minimum lot size area if it:
 - (1) Contains not less than five blockfaces composed of 5 lots or more on each blockface;
 - (2) Contains not more than 500 lots within the same subdivision plat or not more than 400 lots within different subdivision plats;
 - (3) Contains all lots on each blockface within the proposed area;
 - (4) Forms a contiguous area without containing any out tracts;
 - (5) Contains lots, at least 80 percent of which are developed for or restricted to single-family use, exclusive of land used for a park, library, place of religious assembly or an elementary school, junior high school, or high school; and
 - (6) Contains lots, at least 10 percent of which do not have a minimum lot size established by deed restrictions;

(Ord. No. 2013-343, § 3(Exh. A), 4-24-2013; Ord. No. 2015-639, § 31, 6-24-2015, eff. 7-24-2015)

Sec. 42-198. - Application.

- (a) An application for designation of a special minimum lot size block or a special minimum lot size area shall be filed with the department by an applicant who shall be the primary contact person regarding the application. The applicant shall be an owner of a lot within the proposed block or area or a representative of a home owner's association, civic association, or other entity representing the interests of individual owners of lots within the proposed block or area. The application shall be in the form prescribed by the director and shall:
 - (1) Be signed by the owner of a lot within the proposed special minimum lot size block or the owners of ten percent of the lots in a proposed special minimum lot size area. The signature of

one owner of a lot shall be presumed to represent the consent of all owners of a lot with more than one owner;

- (2) Include an inventory of the lots in the proposed area identifying the address, land use at the time of the filing of the application, area of each lot, and which lots, if any, have a minimum lot size established by deed restrictions;
 - (3) For a special minimum lot size block, the applicant shall provide evidence of support from the owners of lots within the proposed area;
 - (4) For a special minimum lot size area, the applicant shall provide suggestions for suitable and freely available venues in or near the proposed special minimum lot size area for the location of a community meeting at which evidence of support for the application can be determined;
 - (5) For a special minimum lot size area, the applicant shall provide a brief description of how the application meets the criteria of subsection (a) of section 42-204 of this Code; and
 - (6) Include a map depicting boundaries of the proposed block or area.
- (b) Prior to the filing of an application with the department, the applicant shall meet with the director. The director shall conduct a preliminary review of the application during the pre-submittal meeting and advise the applicant of the procedures for applications as well the criteria used by the commission and city council to evaluate an application. The director shall also advise the applicant of any deficiencies that would cause the application to be considered incomplete or that would cause the application to not conform to the criteria.

(Ord. No. 2013-343, § 3(Exh. A), 4-24-2013; Ord. No. 2015-639, § 32, 6-24-2015, eff. 7-24-2015)

Sec. 42-199. - Application review.

- (a) Upon receipt of an application, the director shall evaluate the application to determine whether the application meets the requirements of section 42-198 of this Code. The director shall inform the applicant of whether the application is accepted or rejected within two business days of receipt of the application and if the application is rejected, the director shall give written notice to the applicant of the specific deficiencies of the application.
- (b) If an application is accepted pursuant to subsection (a) of this section, the director shall:
 - (1) Within two business days, update the list of special building lot size applications and designations on the department website to include:
 - a. The reference number for the application;
 - b. A description of the location of the minimum lot size block or area proposed by the application;
 - c. The date when a complete, valid, subdivision plat, development plat, or building permit application filed with the department shall be subject to the special minimum lot size requirement pursuant to section 42-208 of this Code; and
 - d. The status of the application.
 - (2) Review each application for completeness and shall determine the effective minimum lot size requirement pursuant to section 42-202 of this Code. The director shall determine if an application satisfies the eligibility requirements of section 42-197 of this Code and shall consider the application to be complete within 30 business days of receipt of an application for a special minimum lot size block or initially complete within 60 business days of receipt of an application for a special minimum lot size area.
- (c) If an application does not satisfy the eligibility requirements of section 42-197 of this Code, the director shall either:

- (1) Consider the application incomplete, return the application to the applicant for revision, and advise the applicant of the specific deficiencies within the application; or
- (2) Modify the boundaries of the proposed area by removing a blockface from a special minimum lot size block or one or more blockfaces from a special minimum lot size area so that the boundaries as amended satisfy the requirements, or modify the boundaries in accordance with subsection 42-204(c) of this Code, after which the director shall consider the application for a minimum lot size block to be complete or an application for a minimum lot size area to be initially complete.

(Ord. No. 2013-343, § 3(Exh. A), 4-24-2013; Ord. No. 2015-639, § 33, 6-24-2015)

Sec. 42-200. - Additional procedures for a special minimum lot size block application.

- (a) For an application for a special minimum lot size block, the director shall, within 15 business days of the receipt of a complete application, give notice of the application by first class mail to the owners of lots included in the application as shown on the current appraisal district records.
- (b) The director shall give notice by electronic mail to each district city council member in whose district any lot within the proposed special minimum lot size block is located.
- (c) The notice shall inform the owners of lots of the application and the procedure for review and consideration of the application. The notice shall also inform the owners of lots of their prerogative to file a written protest of the application with the department within 30 days of the date of the notice.
- (d) The applicant shall place two signs on each blockface included in the application which shall conform to the specifications prescribed by the director. The director shall approve an alternative to the number and location of signs required by this subsection upon determining that the alternative will provide sufficient visibility of the signs and accomplish the objectives of this section without unduly burdening the applicant. The applicant shall use reasonable efforts to maintain each required sign on each blockface until either the director refers an approved application to city council or the commission takes final action on an application.
- (e) For an application signed by the owners of 51 percent or more of the area within the proposed block, if no timely written protest by an owner of a lot within the proposed block is received by the department, and the director finds that the application meets the approval criteria of section 42-204 of this chapter, the director shall approve the application and refer the application directly to city council for consideration.
- (f) If the director is not able to approve the application, the director shall refer the application to the commission for review and consideration pursuant to section 42-204 of this Code.

(Ord. No. 2013-343, § 3(Exh. A), 4-24-2013; Ord. No. 2015-639, §§ 34, 35, 6-24-2015, eff. 7-24-2015)

Sec. 42-201. - Additional procedures for a special minimum lot size area application.

- (a) For an application for a special minimum lot size area, the director, within 60 business days of receipt of an initially complete application, shall establish a date for a community meeting on the application which shall not take place later than 90 business days after determination that the application is initially complete. The director shall give notice of the meeting by first class mail to all owners of lots within the proposed area as indicated on the current appraisal district records not later than 15 business days prior to the date of the community meeting. The notice shall include the date, time, and location of the community meeting, and the procedures for consideration of an application.
- (b) The director shall give notice by electronic mail to each district city council member in whose district any portion of the proposed area is located.

- (c) The applicant shall place two signs on each blockface within the proposed area that conforms to the specifications prescribed by the director. The director shall approve an alternative to the number and location of signs required by this subsection upon determining that the alternative will provide sufficient visibility of the signs and accomplish the objectives of this section without unduly burdening the applicant. The applicant shall use reasonable efforts to maintain each required sign on each blockface until commission takes final action on an application.
- (d) The director shall establish rules for the conduct of the community meeting, and will hold the community meeting within or near the proposed area, subject to the availability of an appropriate venue. At the community meeting, the director shall inform the owners of lots of the application for designation of the proposed special minimum lot size area and the process for review and consideration by the department, commission, and city council.
- (e) Not later than 60 days after the community meeting, the director shall mail a response form by first class mail to the owners of all lots within the proposed area for the purpose of gathering evidence of support for the application. The response form shall be completed and returned by the lot owner and shall indicate whether the lot owner does or does not support designation of the proposed special minimum lot size area. The response form must be signed by the lot owner, delivered or mailed to the director, and if mailed, postmarked not later than 30 days after the date of notice indicated on the response form. The signature of one owner of a lot is presumed to represent the consent of all owners of a lot with more than one owner.
- (f) Within 60 business days after the deadline for returning response forms mailed in accordance with subsection (e) has passed, the director shall determine if owners of 55 percent of the proposed area support the designation of the special minimum lot size area. For purposes of determining whether 55 percent of the proposed area supports the designation, the director shall not count land that is owned by a governmental entity or a utility that does not return a response form. If the director finds that 55 percent of the proposed area supports the designation, the application will be considered complete. If the director is unable to make the determination, the director shall:
 - (1) Modify the boundaries of the proposed area by removing one or more blockfaces or modify the boundaries in accordance with subsection 42-204(c) of this Code if the modification will result in boundaries where the owners of 55 percent of the lots support designation of the proposed area. If the director modifies the boundaries in a way that achieves 55 percent support, the application will be considered complete; or
 - (2) Determine that the application fails and that no further action will be taken by the department or the commission. The director shall give notice by first class mail to the owners of all lots within the proposed area as shown on the current appraisal district records that the application has failed to meet the criteria of this subdivision and that there will be no public hearing before the commission.

(Ord. No. 2013-343, § 3(Exh. A), 4-24-2013; Ord. No. 2015-639, §§ 36, 37, 6-24-2015)

Sec. 42-202. - Determination of special minimum lot size requirement.

The following formula shall be used to determine the special minimum lot size requirement:

- (1) List all of the lots within the proposed special minimum lot size block or area that are not owned by a governmental entity or utility in descending order of lot sizes.
- (2) Express each lot's area as a percentage of the total area of all lots within the proposed special minimum lot size block or area by dividing the square footage of each lot with the sum of the square footage of all lots within the entire special minimum lot size block or area.
- (3) Add the areas expressed as a percentage in the order of the list until the cumulative sum of the percentages reaches 70 percent or greater, or in the case of a special minimum lot size block or area within a historic district designated by city council, 60 percent or greater.

- (4) The square footage of the lot at which the cumulative sum reaches the percentage required by item (3) of this section is the special minimum lot size requirement.

(Ord. No. 2013-343, § 3(Exh. A), 4-24-2013; Ord. No. 2015-639, § 38, 6-24-2015, eff. 7-24-2015)

Sec. 42-203. - Notice of a public hearing before the commission.

- (a) The director shall establish a date for a public hearing on the application before the commission, and give notice by first class mail of the date, time, and location of the public hearing to the applicant and the owners of all lots within the proposed block or area as shown on the current appraisal district records not later than 15 days before the date of the public hearing.
- (b) The director shall give notice by electronic mail to each district city council member in whose district any portion of the proposed area is located.

(Ord. No. 2013-343, § 3(Exh. A), 4-24-2013)

Sec. 42-204. - Commission review and consideration.

- (a) The commission shall consider each complete application referred by the director and shall hold a public hearing on the application. After the close of the public hearing, the commission shall consider the application and recommend designation of a proposed special minimum lot size block or a special minimum lot size area that complies with the following criteria:
 - (1) The proposed area has an identifiable lot size character, taking into account the age of the neighborhood, existing evidence of a common plan and scheme of development, and other factors that the commission reasonably determines to be relevant to an individual application;
 - (2) The establishment of the proposed special minimum lot size requirement will further the goal of preserving the identifiable lot size character of the proposed area;
 - (3) The applicant has demonstrated sufficient support for the application to warrant the designation of the special minimum lot size requirement;
 - (4) The application complies with the application requirements of section 42-198 of this Code and the eligibility requirements of section 42-197 of this Code;
 - (5) For a proposed special minimum lot size area, no blockface within the boundaries includes a significant area developed as or restricted to a use that is not single-family residential use; and
 - (6) For a proposed special minimum lot size area, no blockface within the boundaries includes a significant area that does not share a lot size character with the rest of the proposed area.
- (b) If the commission is unable to recommend designation of the proposed block or area, the commission shall:
 - (1) Defer the consideration of the application to a later commission date and request additional information needed to consider the application be provided;
 - (2) Deny the application;
 - (3) Modify the boundaries of the proposed block or area by removing one or more blockfaces if the modification will result in boundaries of a block or area that the commission determines to satisfy the criteria of subsection (a) of this section; or
 - (4) Modify the boundaries of the proposed special minimum lot size area in accordance with subsection (c) of this section.

- (c) When provided for by this chapter, the boundary of a proposed special minimum lot size block or area may terminate at the location of existing major physical features that create a distinct and identifiable boundary. The modified boundary must satisfy the requirements of subsection (a) of this section, except for item 42-197(c)(3) of this Code. For the purposes of this subsection, major physical features include, but are not limited to, the following:
- (1) A public street that:
 - a. Does not have a roadway;
 - b. Has a right-of-way width of 100 feet or more; or
 - c. Is a major thoroughfare;
 - (2) Property owned in fee by an electric utility and used or intended for use for electric transmission facilities;
 - (3) A drainage channel required by a governmental entity with flood control jurisdiction, or other creeks, bayous, or other waterways; and
 - (4) A railroad track;
 - (5) An existing neighborhood perimeter wall or sound barrier wall; and
 - (6) A lot on the perimeter of the proposed area that is:
 - a. More than ten times the size of the proposed special minimum lot size requirement calculated in accordance with section 42-202 of this Code; or
 - b. Not in use for or restricted to single-family residential use that is abutting a major thoroughfare.

(Ord. No. 2013-343, § 3(Exh. A), 4-24-2013; Ord. No. 2015-639, § 39, 6-24-2015)

Sec. 42-205. - City council review and consideration.

- (a) The director shall submit an affirmative recommendation of the commission to designate the proposed special minimum lot size block or special minimum lot size area to city council, which shall decide whether to designate the block or area based on the criteria of subsection (a) of section 42-204 of this Code.
- (b) After designation by city council, the director shall file for recordation in the real property records of the county or counties in which the designated block or area is located, a notice of the city council action for each lot within the designated block or area.

(Ord. No. 2013-343, § 3(Exh. A), 4-24-2013)

Sec. 42-206. - Ineligibility for inclusion after denial.

- (a) If the commission votes not to recommend the application or the city council votes to deny the application, any lot included within the boundaries of the application at its final consideration is ineligible for inclusion in a new application for a period of one year from the date of the final action.
- (b) The director may allow an ineligible lot to be included in a new application upon receipt of new information not known to the applicant at the time of the prior application regarding changed circumstances that the director determines warrants the inclusion of the lot in a new application.

(Ord. No. 2013-343, § 3(Exh. A), 4-24-2013)

Sec. 42-207. - Term and expiration; application to rescind; application to renew.

- (a) A special minimum lot size requirement established pursuant to an application that the director determines to be complete after May 24, 2013 shall be effective for 40 years after the effective date of the ordinance establishing the requirement unless terminated earlier by an ordinance adopted by city council. A special minimum lot size requirement established pursuant to an application that the director determines to be complete before May 24, 2013 shall be effective for 20 years after the effective date of the ordinance establishing the minimum lot size requirement unless terminated earlier by an ordinance adopted by city council.
- (b) An application to rescind a special minimum lot size requirement shall comply with the application requirements of section 42-198 of this Code for establishing a special minimum lot size requirement except that items (2) and (5) of subsection (a) of section 42-198 of this Code shall not be required. The application to rescind shall be accepted by the director no earlier than five years after the effective date of the ordinance establishing the special minimum lot size requirement and no earlier than five years after the final action on the most recent application to rescind the special minimum lot size requirement. Notwithstanding the foregoing, an application may be accepted by the director if the applicant provides new information regarding changed circumstances that the director determines warrants the acceptance of the application. The application shall be reviewed in accordance with the provisions of this subdivision for a new application for designation of a special minimum lot size block or special minimum lot size area, as applicable, except as provided by subsection (c) of this section.
- (c) In addition to the criteria for reviewing an application to establish a special minimum lot size requirement in this subdivision, an application to rescind a special minimum lot size requirement shall be evaluated in accordance with the following:
 - (1) For an application to rescind a special minimum lot size block:
 - a. If the application is not signed by the property owners of 67 percent of the area within the special minimum lot size block, the application fails and no further action shall be taken;
 - b. If the application is signed by the property owners of 67 percent of the area within the special minimum lot size block and no timely written protest is received by the department, the director shall approve the application and refer the application directly to city council for consideration; and
 - c. If the application is signed by property owners of 67 percent of the area within the special minimum lot size block and a timely written protest is received by the department, the director shall refer the application to the commission. The commission shall approve the application and refer the application to city council for consideration if the special minimum lot size block no longer satisfies the criteria of section 42-204 of this Code.
 - (2) For an application to rescind a special minimum lot size area:
 - a. If the application does not receive the support of the property owners of 67 percent of the area after return of the response forms required by section 42-201 of this Code, the application fails and no further action shall be taken; and
 - b. If the application receives the support of the property owners of 67 percent of the area within the special minimum lot size area after return of the response forms required by section 42-201 of this Code, the commission shall approve the application and refer the application to city council if it finds the special minimum lot size area no longer satisfies the requirements of section 42-204 of this Code.
- (d) An application to renew a special minimum lot size requirement shall comply with the application requirements of section 42-198 of this Code except that items (2), (3), and (5) of subsection (a) of section 42-198 shall not be required. The application to renew shall be accepted by the director no earlier than two years before the expiration of the ordinance establishing the special minimum lot size requirement. The application shall be reviewed in accordance with the provisions of this subdivision for a new application for designation of a special minimum lot size block or special minimum lot size area, as applicable, except as provided by subsection (e) of this section.

- (e) In addition to the criteria for reviewing an application to establish a special minimum lot size requirement in this subdivision, an application to renew a special minimum lot size requirement shall be evaluated in accordance with the following:
 - (1) For an application to renew a special minimum lot size block that does not receive a timely protest by an owner of a lot within the proposed special minimum lot size block, and the director finds that the application meets the approval criteria of 42-204 of this chapter, the director shall approve the application and refer the application directly to city council for consideration;
 - (2) For a special minimum lot size area, the application to renew shall be administratively approved by the director and forwarded to city council for consideration if the owners of less than 10 percent of the special minimum lot size area oppose the renewal of the special minimum lot size requirement after return of the response forms required by section 42-201 of this Code, and the director finds that the application meets the approval criteria of 42-204 of this chapter; and
 - (3) Applications that cannot be administratively approved by the director shall be evaluated in accordance with the procedures for applications to establish a special minimum lot size requirement.

(Ord. No. 2013-343, § 3(Exh. A), 4-24-2013; Ord. No. 2015-639, § 40, 6-24-2015, eff. 7-24-2015)

Sec. 42-208. - Rules governing subdivision plats, development plats, and building permits.

- (a) A complete, valid subdivision plat or development plat application filed with the department shall be subject to the special minimum lot size requirement only if it is filed after the seventh day following the date an application for a special minimum lot size block or special minimum lot size area is published online by the director pursuant to subsection (b) of section 42-199 of this Code.
- (b) A subdivision plat that is subject to the minimum lot size requirement shall not be approved if it provides for the creation of a lot that is smaller than or equal to the special minimum lot size established by the director pursuant to section 42-202 of this Code.
- (c) If a lot is lawfully developed for or is lawfully in use for other than single family residential use at the time the application for establishment of a special minimum lot size block was filed with the department, a subdivision plat or development plat for that lot may provide for any use permitted by law.
- (d) If a lot that was in use for or restricted to single-family residential use or a vacant lot that was not restricted to a use other than to single-family residential use at the time the application for establishment of a special minimum lot size block was determined by the director to be complete or the application for establishment of a special minimum lot size area was determined by the director to be initially complete, a subdivision plat, development plat, or building permit for that lot shall provide only for single-family residential use.
- (e) If a vacant lot was restricted by deed restrictions to any use other than single-family residential use at the time the application for establishment of a special minimum lot size block was determined by the director to be complete or the application for establishment of a special minimum lot size area was determined by the director to be initially complete, a subdivision plat or development plat for the vacant lot may provide for any use permitted by law.
- (f) Notwithstanding the provisions of this section, if the city council has not completed action on the special minimum lot size block or special minimum lot size area application 180 business days after the earlier of the date the application is determined by the director to be complete or the date the director fails to timely perform an action required by this subdivision, the subdivision plat or development plat application shall not be subject to the special minimum lot size.

(Ord. No. 2013-343, § 3(Exh. A), 4-24-2013; Ord. No. 2015-639, § 41, 6-24-2015, eff. 7-24-2015)

Sec. 42-209. - Reserved.